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Mark J. Langer  
Clerk of Court  
United States Court of Appeals for the  
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333 Constitution Avenue NW  
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Re: *American Society for Testing and Materials, et al. v. Public.Resource.Org, Inc.,*  
No. 22-7063

Dear Mr. Langer:

I write to address Plaintiff-Appellants ("Plaintiffs") use of acronyms and abbreviations in their opening brief filed in the above-referenced appeal. Following the Court's letter dated September 19, Plaintiffs have filed a revised brief to eliminate certain acronyms and abbreviations. The revised brief retains three categories of acronyms and abbreviations.

First, the brief uses acronyms to refer to the three Plaintiffs: American Society for Testing and Materials ("ASTM"), National Fire Protection Association ("NFPA"), and American Society of Heating, Refrigerating, and Air Conditioning Engineers ("ASHRAE"). These organizations are widely referred to by their acronyms within the industry, and the parties and previous decisions in this litigation have used those acronyms rather than Plaintiffs' full names. Additionally, Plaintiffs' copyrighted standards at issue in this litigation are named using those acronyms and a number or combination of letters and numbers, rather than Plaintiffs' full names (e.g., ASTM B85, NFPA 70, and ASHRAE 90.1).

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Second, the brief uses the term “IBR” to refer to the process of “incorporation by reference.” This appeal centers on the effects of that process and the term IBR has been widely used by the parties during previous briefing, including previous briefing in this Court. *See, e.g.*, Final Brief of Appellees xviii, *American Society for Testing and Materials et al. v. Public.Resource.Org*, No. 17-7035 (Feb. 14, 2018).

Third, the brief uses “SMF,” “2d. Supp. SMF,” and “3d. Supp. SMF” to refer to three statements of material facts that Plaintiffs filed in the district court. Plaintiffs used those abbreviations in their filings below, and the district court’s opinion adopted very similar abbreviations. *See* Memorandum Opinion 2, 8-9 (using “Pls.’ SMF,” Pls.’ 2d SMF,” and “Pls.’ 3d SMF”). While Plaintiffs could have referred to those filings by their docket numbers instead of those abbreviations, Plaintiffs’ view was that using abbreviations would more clearly communicate the documents being cited than using docket numbers.

Plaintiffs believe that their use of these acronyms and abbreviations is consistent with the Court’s directive dated January 26, 2010 and the D.C. Circuit Handbook. Most significantly, because these acronyms and abbreviations have been extensively used throughout this litigation, Plaintiffs use of them on appeal provides consistency with the record. Moreover, because alternative options available to Plaintiffs (*e.g.*, using “Dkt. 201” rather than “2d. Supp. SMF” to refer to Plaintiffs’ Second Supplemental Statement of Material Facts in Support of Their Second Motion for Summary Judgment) would have, in Plaintiffs’ view, been more cumbersome and difficult for the Court to follow, Plaintiffs’ view is that their use of acronyms and abbreviations is most consistent with the Court’s goal of “enhanc[ing] the clarity of... brief[s].” Notice Regarding Acronyms (Jan. 26, 2010).

I appreciate your courtesy in providing this letter to the Panel. Please do not hesitate to contact me if there is any additional information I can provide.

Very truly yours,

/s/ Donald B. Verrilli, Jr.

Donald B. Verrilli, Jr.